

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

PIERRE INVESTMENTS, INC., <i>et al.</i> ,	:	Case No. 1:22-cv-155
	:	
Plaintiffs,	:	Judge Timothy S. Black
	:	
vs.	:	
	:	
FIFTH THIRD BANCORP, <i>et al.</i> ,	:	
	:	
Defendants.	:	

ORDER GRANTING MOTIONS TO DISMISS (Doc. 61, 64)

This civil action is before the Court on Defendant Jefferey Bullock in his official capacity as the Delaware Secretary of State's motion to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(5), and 12(b)(6). (Doc. 61). Also before the Court is Plaintiff's motion to dismiss Defendant Jeffrey Bullock, in his official capacity as the Delaware Secretary of State. (Doc. 64).

Defendant Jeffrey Bullock (the "Delaware SOS") is the only remaining defendant in this case. The Delaware SOS moves to the dismiss the complaint against him, in part, for lack of jurisdiction based on Eleventh Amendment immunity. (Doc. 61 at 5-6). *See also Ernst v. Rising*, 427 F.3d 351, 367 (6th Cir. 2005) ("dismissals for lack of jurisdiction should generally be made without prejudice"). Plaintiff similarly moves to dismiss the Delaware SOS without prejudice pursuant to Rule 21. (Doc. 64). *See Fed. R. Civ. P. 21* ("On motion or on its own, the court may at any time, on just terms, add or drop a party."). Although the parties have yet to respond to either motion, the Court finds

that any responses are unnecessary because the parties seek the same relief. Thus, there is no reason to delay.

Accordingly, the Delaware SOS's motion to dismiss (Doc. 61) is **GRANTED** to the extent it seeks dismissal without prejudice for lack of jurisdiction. Plaintiff's motion to dismiss (Doc. 64) the Delaware SOS without prejudice is **GRANTED**. Pursuant to this Order and the Court's Order Resolving Pending Motions (Doc. 52), the Clerk shall enter the following final judgment:

1. The Amended Complaint (Doc. 13), as asserted against the "Fifth Third Bank, an Ohio banking corporation," "Fifth Third Bank, Northwestern Ohio, NA Toledo," "Fifth Third Bank, National Association," "Fifth Third Bancorp," Brian Reid, Julie Kreistenak, and Blake Williams, is **DISMISSED with prejudice** in its entirety.
2. The Amended Complaint (Doc. 13), as asserted against the Ohio Secretary of State and the Delaware Secretary of State, is **DISMISSED without prejudice** in its entirety.

After judgment is entered, the Clerk shall close the case.

IT IS SO ORDERED.

Date: 3/3/2023

s/Timothy S. Black
Timothy S. Black
United States District Judge